

AMENDED IN ASSEMBLY APRIL 27, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 926

Introduced by Assembly Member Hayashi

February 18, 2011

An act to add and repeal Section 2401.1 of the Business and Professions Code, relating to physicians and surgeons, *and declaring the urgency thereof, to take effect immediately.*

LEGISLATIVE COUNSEL'S DIGEST

AB 926, as amended, Hayashi. Physicians and surgeons: direct employment.

Existing law, the Medical Practice Act, restricts the employment of licensed physicians and surgeons and podiatrists by a corporation or other artificial legal entity, subject to specified exemptions. Existing law established, until January 1, 2011, a pilot project to allow qualified district hospitals that, among other things, ~~provide~~ *provided* more than 50% of patient days to the care of Medicare, Medi-Cal, and uninsured patients, to employ a physician and surgeon, if the hospital ~~does~~ *did* not interfere with, control, or otherwise direct the professional judgment of the physician and surgeon. The pilot project authorized the direct employment of not more than 20 physicians and surgeons by all of those hospitals to provide medically necessary services in rural and medically underserved communities. Existing law imposed specified duties on the Medical Board of California with regard to the pilot project.

This bill would, until January 1, 2022, reenact the pilot project to allow all qualified district hospitals to employ not more than 50 physicians and surgeons, under circumstances described above. The

bill would require the Medical Board of California to report to the Legislature by October 1, 2020, on the effectiveness of the pilot project.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: ~~majority~~^{2/3}. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 2401.1 is added to the Business and
2 Professions Code, to read:

3 2401.1. (a) The Legislature finds and declares as follows:

4 (1) Due to the large number of uninsured and underinsured
5 Californians, a number of California communities are having great
6 difficulty recruiting and retaining physicians and surgeons.

7 (2) In order to recruit physicians and surgeons to provide
8 medically necessary services in rural and medically underserved
9 communities, many district hospitals have no viable alternative
10 but to directly employ physicians and surgeons in order to provide
11 economic security adequate for a physician and surgeon to relocate
12 and reside in their communities.

13 (3) The Legislature intends that a district hospital meeting the
14 conditions set forth in this section be able to employ physicians
15 and surgeons directly and to charge for their professional services.

16 (4) The Legislature reaffirms that Section 2400 provides an
17 increasingly important protection for patients and physicians and
18 surgeons from inappropriate intrusions into the practice of
19 medicine, and further intends that a district hospital not interfere
20 with, control, or otherwise direct a physician and surgeon's
21 professional judgment.

22 (b) A pilot project to provide for the direct employment of a
23 total of 50 physicians and surgeons by qualified district hospitals
24 is hereby established in order to improve the recruitment and
25 retention of physicians and surgeons in rural and other medically
26 underserved areas.

27 (c) For purposes of this section, a qualified district hospital
28 means a hospital that meets all of the following requirements:

29 (1) Is a district hospital organized and governed pursuant to the
30 Local Health Care District Law (Division 23 (commencing with
31 Section 32000) of the Health and Safety Code).

1 (2) Provides a percentage of care to Medicare, Medi-Cal, and
2 uninsured patients that exceeds 50 percent of patient days.

3 (3) Is located in a county with a total population of less than
4 750,000.

5 (4) Has net losses from operations in fiscal year 2008–09, as
6 reported to the Office of Statewide Health Planning and
7 Development.

8 (d) In addition to the requirements of subdivision (c), and in
9 addition to other applicable laws, a qualified district hospital may
10 directly employ a licensee pursuant to subdivision (b) if all of the
11 following conditions are satisfied:

12 (1) The total number of physicians and surgeons employed by
13 all qualified district hospitals under this section does not exceed
14 50.

15 (2) The medical staff and the elected trustees of the qualified
16 district hospital concur by an affirmative vote of each body that
17 the physician and surgeon's employment is in the best interest of
18 the communities served by the hospital.

19 (3) The licensee enters into or renews a written employment
20 contract with the qualified district hospital prior to December 31,
21 2015, for a term not in excess of four years. The contract shall
22 provide for mandatory dispute resolution under the auspices of the
23 board for disputes directly relating to the licensee's clinical
24 practice.

25 (4) The total number of licensees employed by the qualified
26 district hospital does not exceed five at any time.

27 (5) The qualified district hospital notifies the board in writing
28 that the hospital plans to enter into a written contract with the
29 licensee and the board has confirmed that the licensee's
30 employment is within the maximum number permitted by this
31 section. The board shall provide written confirmation to the hospital
32 within five working days of receipt of the written notification to
33 the board.

34 (e) (1) The board shall report to the Legislature not later than
35 October 1, 2020, on the evaluation of the effectiveness of the pilot
36 project in improving access to health care in rural and medically
37 underserved areas and the project's impact on consumer protection
38 as it relates to intrusions into the practice of medicine.

1 (2) The report to be submitted pursuant to paragraph (1) shall
2 be submitted in compliance with Section 9795 of the Government
3 Code.

4 (f) Nothing in this section shall exempt the district hospital from
5 any reporting requirements or affect the board's authority to take
6 action against a physician and surgeon's license.

7 (g) This section shall remain in effect only until January 1, 2022,
8 and as of that date is repealed, unless a later enacted statute that
9 is enacted before January 1, 2022, deletes or extends that date.

10 *SEC. 2. This act is an urgency statute necessary for the*
11 *immediate preservation of the public peace, health, or safety within*
12 *the meaning of Article IV of the Constitution and shall go into*
13 *immediate effect. The facts constituting the necessity are:*

14 *In order to increase the recruitment and retention of physicians*
15 *and surgeons in rural and other medically underserved areas and*
16 *to provide improved access to health care in those areas at the*
17 *earliest possible time, it is necessary that this act take effect*
18 *immediately.*